

Application No. 09/724,075
Amendment dated September 18, 2003
Reply to Office Action of September 4, 2003

REMARKS

Applicant's remarks are preceded by relevant statements of the Examiner (presented in small bold-faced type).

2. Claims 1-14, are rejected under 35 U.S.C. § 101 because, the claimed invention is directed to a non-statutory subject matter. Specifically the claims are directed towards an abstract idea. Claims 1-14 represent an abstract idea that does not provide a practical application in the technological arts. There is no post-computer process activity found, the claimed invention performs mathematical calculations with no post solution activity. Therefore applicant is reminded to embed a computer or processor or module into claims 1-14 in order to overcome this 101 rejection, appropriate correction is required.

The Examiner's rejection is respectfully traversed. Although the Examiner has suggested that applicant embed a computer or processor or module into claims 1-14 in order to overcome the 101 rejection, applicant respectfully disagrees that recitation of the invention as implemented on a programmed computer is required under the statutory laws of 35 USC 101, under Federal Circuit case law such as *State Street Bank & Trust Co. v. Signature Financial group, Inc.* 149 F.3d 1368, 1374-75, 47 USPQ2d 1596, 1602 (Fed. Cir. 1998) (hereinafter State Street), and *AT&T Corp. v. Excel Communications Inc.*, 172 F.3d 1352, 1355, 50 USPQ2d 1447 (Fed. Cir. 1999) (hereinafter AT&T), or under properly promulgated rules and regulations implementing the foregoing.

Nevertheless, to remove this issue from further consideration, and to thereby speed allowance of this application, applicant has amended the independent claims of the present application to recite "a computer or processor or module" as suggested by the Examiner. The Federal Circuit has recognized that claims that require the use of "switches and computers" are statutory subject matter whether the claimed invention is a process or a machine. (AT&T 50 USPQ2d at 1449-1450). Applicant reserves the right to continue prosecution of claims 1-14, as originally filed, in a subsequent filing (i.e., in a continuation or continuation-in part application).

For at least the foregoing reasons, applicant submits that the Examiner's rejection of claims under 35 U.S.C. 101 has been overcome and claims 1-14 are in condition for allowance. Furthermore, because the Examiner has not stated any additional grounds for rejection in the Office Action, no additional

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grounds of rejection should now arise. See generally, MPEP 707.07 ("The Examiner's action will be complete as to all matters"). Consequently, applicant respectfully request that all claims now be allowed

Conclusions

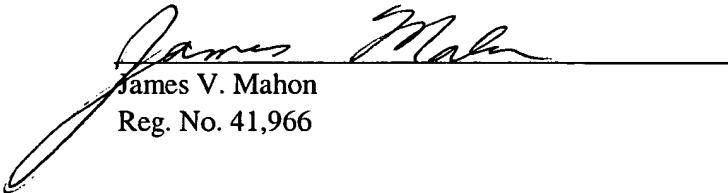
Claims 1-14 are now pending and are believed to be in condition for allowance.

No new matter has been added.

Please apply any credits or excess charges to our deposit account number 50-0521.

Respectfully submitted,

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